

Supplemental Allowance

This supplemental notice of allowance corrects form PTOL-37 and the “Election/Restrictions” and “Allowable Subject Matter” sections of this document, each of which failed to list claim 37 as one of the allowable claims.

Response to Arguments

1. Applicant’s arguments filed 6/2/2009, have been fully considered and are persuasive.

The incorporation of all the limitations of previous claim 14, which depended from previous claim 11 and which was indicated as allowable subject matter in the previous office action, into independent claim 11 effectively overcomes the rejection of claim 11 presented in the previous office action.

As applicant notes, the § 112, first paragraph, rejections of claims 34, 37, and 38 in the previous office action were improper because separation of items from a Markush group into separate claims is not grounds for such a rejection. The § 112, first paragraph, rejections of claims 34, 37, and 38 are withdrawn.

The cancellation of all claims not depending from claim 11 renders the rejections of those claims moot.

Non-elected claims 12, 12, 15, 16, 18-22 and 33 now depend from an allowable claim and are rejoined.

Response to Amendment

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2. Applicant's amendments filed 6/2/2009, after a final office action, place the application in condition for allowance and are entered.

Election/Restrictions

3. Claims 11-13, 15-22, 24, 33, 34, 37, and 38 allowable. The restriction requirement among species 1, 2, 4, 5, A, B, and C, as set forth in the Office action mailed on 5/16/2008, has been reconsidered in view of the allowability of claims to the elected invention pursuant to MPEP § 821.04(a). **The restriction requirement is hereby withdrawn as to any claim that requires all the limitations of an allowable claim.** Claims 12, 13, 15, 16, 18-22, and 33, directed to species 1, 2, 4, 5, A, B, or C no longer withdrawn from consideration because the claim(s) requires all the limitations of an allowable claim.

In view of the above noted withdrawal of the restriction requirement, applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

Once a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

Allowable Subject Matter

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4. Claims 11-13, 15-22, 24, 33, 34, 37, and 38, now renumbered 1-16, allowed.

5. The following is a statement of reasons for the indication of allowable subject matter: The amendments filed place the application in condition for allowance as described in the sections above.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROBERT R. RAINEY whose telephone number is (571)270-3313. The examiner can normally be reached on Monday through Friday 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Amare Mengistu can be reached on (571) 272-7674. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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/RR/

/Amare Mengistu/

Supervisory Patent Examiner, Art Unit 2629